

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

EIGHTEENTH LEGISLATIVE DAY
THURSDAY, JANUARY 23, 2003

Senate Chamber

President Risch called the Senate to order at 11:30 a.m.

Roll call showed all members present except Senators Andreason, Cameron, Marley, Schroeder, and Stennett, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Andreason, Schroeder, and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 22, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Cameron was recorded present at this order of business.

January 23, 2003

The JUDICIARY AND RULES Committee reports that **S 1022** and **SJM 101** have been correctly printed.

DARRINGTON, Chairman

S 1022 was referred to the Finance Committee.

SJM 101 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk

for one legislative day.

January 22, 2003

The COMMERCE AND HUMAN Committee reports out **H 70** with the recommendation that it do pass.

ANDREASON, Chairman

H 70 was filed for second reading.

January 22, 2003

The JUDICIARY AND RULES Committee reports out **S 1004**, **S 1005**, **S 1006**, **S 1007**, and **S 1008** with the recommendation that they do pass.

DARRINGTON, Chairman

S 1004, **S 1005**, **S 1006**, **S 1007**, and **S 1008** were filed for second reading.

January 22, 2003

The JUDICIARY AND RULES Committee reports out **HCR 4**, **HCR 5**, **HCR 6**, and **HCR 7** with the recommendation that they do pass.

DARRINGTON, Chairman

HCR 4, **HCR 5**, **HCR 6**, and **HCR 7** were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 23, 2003

The FINANCE Committee reports out **S 1022** with the recommendation that it do pass.

CAMERON, Chairman

S 1022 was filed for second reading.

January 22, 2003

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Marcus Gibbs to the Idaho Fish and Game Commission, term to expire June 30, 2006;

John Watts to the Idaho Fish and Game Commission, term to expire June 30, 2006.

NOH, Chairman

January 23, 2003

Jeannine Wood

Secretary of the Senate
Statehouse Mail

Madam Secretary:

The enclosed report is the *Minority Report* of the Minority members of the Senate Resources and Environment Committee.

Pursuant to Senate Rule 21(B), we respectfully ask that the report be included in the Senate Journal of January 23, 2003.

Sincerely
/s/ Clint Stennett
Senate Minority Leader

RESOURCES AND ENVIRONMENT COMMITTEE
DISSENTING REASONS AND CONCLUSIONS ON THE
NOMINATION OF MARCUS GIBBS
TO THE IDAHO FISH AND GAME COMMISSION

We, the undersigned Senators, dissent from the report of the Senate Resources and Environment Committee regarding the nomination of Marcus Gibbs as Idaho Fish and Game Commissioner.

We voted to send the nomination of Mr. Gibbs to the full Senate **WITH A DO NOT CONFIRM RECOMMENDATION** for the following reasons:

1. **The nomination of any candidate who does not declare a political party affiliation by signing an official oath violates the Idaho Code. The Legislative Services Office of the Idaho Legislature has concluded that:**

Section 34-501, Idaho Code, defines "political party" as an "organization of electors under a given name." Political parties are those organizations of electors recognized by the Idaho Secretary of State. Currently, the Secretary of State recognizes five political parties: (1) Republican; (2) Democrat; (3) Libertarian; (4) Natural Law; and (5) American Heritage. The "independent party" is not a recognized political party in the State of Idaho.

In declaring himself as a member of the "independent party," Mr. Gibbs does not meet the statutory requirement for consideration as an appointee to the Idaho Fish and Game Commission. The appointment of Mr. Gibbs by the Governor, and approval by the Senate, clearly violates the *Idaho Code*.

Clearly, legislative intent for commissions in Idaho was to create a steering body that eliminated or minimized the element of politics in overseeing agency implementation of state law. What other reason would explain the need to specify by statute a maximum number of Commissioners affiliated with any one party? By interpreting the statute to include that persons who claim that they are not affiliated with any particular party, defies the intent of this code. The Fish and Game Commission currently has four members who have declared membership in the Republican Party. Mr. Gibbs, upon being questioned in committee, admitted that were he to run for political office, he would run as a Republican. Should Mr. Gibbs choose to declare his party affiliation as Republican, we have more than four members of one party serving, which clearly is in violation of the

law.

2. **The requirement that each Commissioner take an oath of office that includes a declaration as to the name of the political party to which such commissioner belongs.** As noted in point one (1) above, a person who declares himself as an independent clearly cannot fulfill this oath.

The Minority believes that the character and integrity of Mr. Gibbs is beyond reproach. However, we believe we would be remiss in not bringing this issue to the attention of the Senate. We are concerned that decisions made by an illegally constituted Board of Commissioners could be called into question. The Minority believes the Majority has violated *Idaho Code* in confirming the Governor's appointment of Mr. Gibbs. For these reasons, the Minority members of the Resources and Environment Committee oppose the appointment of Marcus Gibbs to the Idaho Fish and Game Commission.

DATED this 23rd Day of January, 2003.

/s/Senator Clint Stennett
Senate Minority Leader
/s/Senator Fred Kennedy

The Minority report was ordered filed in the office of the Secretary of the Senate and was spread upon the pages of the Journal pursuant to Senate Rule 21(B).

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 22, 2003

The STATE AFFAIRS Committee reports out **S 1009** with the recommendation that it do pass.

SORENSEN, Chairman

S 1009 was filed for second reading.

January 22, 2003

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

James C. Hammond to the Idaho State Building Authority, term to expire January 1, 2007.

SORENSEN, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 22, 2003

The JUDICIARY AND RULES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Molly J. Huskey as Idaho State Appellate Public Defender,

term to expire August 1, 2006.

DARRINGTON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

January 22, 2003

Mr. President:

I transmit herewith **H 74**, **H 75**, and **H 77** which have passed the House.

JUKER, Chief Clerk

H 74, **H 75**, and **H 77** were filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Marley was recorded present at this order of business.

The President announced that **SR 101** was before the Senate for final consideration.

Moved by Senator Davis, seconded by Senator Stennett, that **SR 101** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Andreason. Total - 1.

Total - 35.

More than two-thirds having voted in the affirmative, the President declared **SR 101** adopted, title was approved, and the resolution ordered filed in the office of the Secretary of the Senate.

The President announced that **SR 102** was before the Senate for final consideration.

Moved by Senator Davis, seconded by Senator Stennett, that **SR 102** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Bailey, Brandt, Burkett, Burtenshaw, Calabretta,

Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Andreason, Bunderson, Ingram. Total - 3.

Total - 35.

Whereupon the President declared **SR 102** adopted, title was approved, and the resolution ordered filed in the office of the Secretary of the Senate.

The President announced the Commerce and Human Resources Committee report relative to the Gubernatorial appointment of Jody Olson was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Malepeai, seconded by Senator Davis, the Gubernatorial appointment of Jody Olson as a member of the Idaho Public Employees Retirement System Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Commerce and Human Resources Committee report relative to the Gubernatorial appointment of Tom Kealey was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Compton, seconded by Senator Malepeai, the Gubernatorial appointment of Tom Kealey as a member of the Idaho Endowment Fund Investment Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

On request by Senator Goedde, granted by unanimous consent, **SJM 101** was referred to the Education Committee.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1023

BY EDUCATION COMMITTEE

AN ACT

RELATING TO THE COLLEGE OF EASTERN IDAHO; AMENDING SECTION 33-2208, IDAHO CODE, TO CHANGE THE NAME OF EASTERN IDAHO TECHNICAL COLLEGE TO THE COLLEGE OF EASTERN IDAHO AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2209, IDAHO CODE, TO CHANGE THE NAME OF EASTERN IDAHO TECHNICAL COLLEGE TO THE COLLEGE OF EASTERN IDAHO; AMENDING SECTION

33-2210, IDAHO CODE, TO CHANGE THE NAME OF EASTERN IDAHO TECHNICAL COLLEGE TO THE COLLEGE OF EASTERN IDAHO; AMENDING SECTION 33-2211, IDAHO CODE, TO CHANGE THE NAME OF EASTERN IDAHO TECHNICAL COLLEGE TO THE COLLEGE OF EASTERN IDAHO AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-2212, IDAHO CODE, TO CHANGE THE NAME OF EASTERN IDAHO TECHNICAL COLLEGE TO THE COLLEGE OF EASTERN IDAHO; AND AMENDING SECTION 33-107B, IDAHO CODE, TO PROVIDE REFERENCE TO THE COLLEGE OF EASTERN IDAHO AND TO MAKE TECHNICAL CORRECTIONS.

Attest: JEANNINE WOOD, Secretary

S 1024
BY FINANCE COMMITTEE
AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2003; REDUCING THE GENERAL FUND APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2003; AND DECLARING AN EMERGENCY.

S 1025
BY FINANCE COMMITTEE
AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 2003; PROVIDING TRANSFERS TO THE PEST CONTROL DEFICIENCY FUND; AND DECLARING AN EMERGENCY.

S 1026
BY COMMERCE AND HUMAN RESOURCES
COMMITTEE
AN ACT

RELATING TO ATTACHMENTS AND GARNISHMENTS; AMENDING SECTION 8-507C, IDAHO CODE, TO REVISE LEGAL NOTICE FORM REQUIREMENTS TO PROVIDE CORRECT INFORMATION REGARDING GARNISHMENT LIMITATIONS APPLICABLE TO CONSUMER DEBTS AND TO MAKE TECHNICAL CORRECTIONS.

S 1023, S 1024, S 1025, and S 1026 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 74, H 75, and H 77, by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1014, by Finance Committee, was read the second time at length and filed for third reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m.. until the hour of 11 a.m., Friday, January 24, 2003.

JAMES E. RISCH, President